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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,796

06/14/2007

Alberto Cristina

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26936 7590 12/24/2009  
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EXAMINER

JONAITIS, JUSTIN M

ART UNIT

PAPER NUMBER

3752

MAIL DATE

DELIVERY MODE

12/24/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/597,796	<b>Applicant(s)</b> CRISTINA, ALBERTO	
	<b>Examiner</b> JUSTIN JONAITIS	<b>Art Unit</b> 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,4 and 6-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4, & 6-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

1. This office action is responsive to communications filed on 09/22/2009.

#### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the dispensing and distribution plates in an assembled configuration have a decreasing axial thickness between the center portion and the peripheral portion relative to the radial direction must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

a. A person shall be entitled to a patent unless –

b. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 6-9, 11, & 14-18 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent #6,739,527 to Chung.

Chung discloses a shower head comprising a dispensing plate (locking disk (50)) provided with at least one hole (holes (54)) for dispensing water, a closing plate (water outlet seat (30)), in fluid connection with a water outlet, wherein the plates directly face each other relative to an axial direction and the shower head comprises a seal (water outlet disk (40)) directly arranged and pinched in compression between the dispensing and closing plates (the flange portion of water outlet disk is pinched between the plates), so as to sealingly delimit with the plates a collecting chamber (See Figure 7, there is a Space between locking disk (50) and water outlet seat (30)) in order to dispense the fluid through the holes of the dispensing plate.

Chung further discloses a closing ring (locking flange (31), which is coaxially mounted with the seal, and the wall extending to the top of water outlet seat (30)) arranged between the dispensing and distribution plates (arranged between top of the distribution plate and the dispensing plate), the closing ring being arranged coaxially with the seal, and having an axial thickness smaller than the axial thickness of the seal when at rest (axial thickness of water outlet disk (40) is thicker at the portion that loops over protruding ring (51)) than the axial thickness of the locking flange (31)), Wherein the closing ring is shaped complementary relative to the seal so that in a deformed configuration (tightened down), the seal expands radially into contact with an internal wall of the closing ring, which faces towards the collecting chamber, and the closing ring is

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substantially stiff in the axial direction so as to form an end of stroke as the plates approach one another during the assembly step of the shower head so as to ensure a minimum thickness of the collecting chamber for the water flow towards the dispensing holes.

The shower head also includes nozzles (water injection posts (421)) partially inserted into the holes of the dispensing plate., Wherein the nozzles comprise a dispensing portion projecting from the dispensing plate (see Figure 7, water injection posts (421) project from the locking disk (50)) and a stopping portion, which has an axial thickness smaller than that of the closing ring and acts as a membrane making the nozzles integral with the seal, (flanged portion of water outlet disk (40) that rests on water outlet disk (40)) which form a stop during the introduction of the nozzles into the relevant holes.

The device disclosed by Chung has it's plates are axially held together in compression by screw connecting means (locking screws (316)) which pass through connecting holes (locking holes (311)) on the plate and provided with a head abutting one of the plates, and the screw locked on an opposite end of the head to a nut (part of locking disk (50)). The screw connecting means passes through fixing holes of the closing ring so as to lock the closing ring into position relative to the plates. The screw connecting means are located radially externally to the collecting chamber, and the dispensing and distributing plates at faces directly facing each other are substantially planar.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 4, 10, 12, & 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent #6,739,527 to Chung.

In re claims 4 and 19, Chung discloses the invention as described above but fails to disclose the collecting chamber having a decreasing axial thickness between a central portion and a peripheral portion relative to a radial direction and the dispensing and distribution plates directly facing each other being concave or convex.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the appropriate dimensioning of components to create the various shapes of components, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

In re claims 10 and 12, Chung discloses the invention as described above but fails to disclose the specific thicknesses of components.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to chose the desirable dimensions of components, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent #6,739,527 to Chung in view of U.S. Patent #7,537,175 to Miura et al.

Chung discloses the invention as described above including the seal being made of rubber. Chung fails to disclose the seal being made of a silicone rubber.

Miura teaches it's known to use silicone rubber [column 6, lines 44-45] as the material for a sealing member, since silicone rubber is an acceptable material for sealing components together.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the rubber disclosed by Chung with the silicone rubber disclosed by Miura, since both are acceptable materials for sealing components.

### ***Response to Arguments***

In regard to the drawing objection on page 5 of applicant's remarks and arguments, applicant questions if a new figure would be allowable. Due to the spec supporting the claimed limitation examiner does not feel adding a new figure would be considered new matter.

In regard to the 112 rejection of claims 5 and 12, examiner acknowledges applicant's amendments to the claims to overcome the rejection.

8. Applicant's arguments with respect to claims 1, 4, & 6-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

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calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUSTIN JONAITIS whose telephone number is (571)270-5150. The examiner can normally be reached on Monday - Thurs 6:30am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571)272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JUSTIN JONAITIS/  
Examiner, Art Unit 3752

/Dinh Q Nguyen/  
Primary Examiner, Art Unit 3752